

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

1) VIDEO GAMING TECHNOLOGIES, INC.,)	
)	
)	
Plaintiff,)	
)	
v.)	Case No. 4:17-cv-00454-GKF-JFJ
)	
1) CASTLE HILL STUDIOS LLC)	
(d/b/a CASTLE HILL GAMING);)	
2) CASTLE HILL HOLDING LLC)	
(d/b/a CASTLE HILL GAMING); and)	
3) IRONWORKS DEVELOPMENT, LLC)	
(d/b/a CASTLE HILL GAMING))	
)	
Defendants.)	

**PLAINTIFF’S RESPONSE TO DEFENDANTS’ MOTION FOR LEAVE TO FILE
BRIEFS IN EXCESS OF TWENTY-FIVE PAGES**

Plaintiff Video Gaming Technologies, Inc. (“VGT”) submits this response to Defendants’ Motion for Leave to File Briefs in Excess of Twenty-Five Pages (the “Motion”). Dkt. No. 133.

Defendants ask the Court to quadruple the page limits for opening and opposition briefs and quintuple the limits for reply briefs. Although VGT does not dispute that some increase may be appropriate (and, accordingly, proposed a compromise of 50 pages for opening briefs, 50 pages for opposition briefs and 25 pages for reply briefs), Defendants have not provided an adequate justification for its proposed limits, which would impose a significant burden on both the Court and VGT.

Defendants devote much of their Motion to describing the complexities of this case, but they fail to identify the issues and arguments they intend to raise in their summary judgment motion. Defendants do not state that they intend to move for summary judgment on each claim in the First Amended Complaint—in fact, during the meet and confer process, Defendants indicated

that they had not decided whether they would file a motion on VGT's trade dress claim.¹ Nor do they explain why the complexities they describe will affect their summary judgment motion. For example, Defendants mention the number of trademarks, trade dress features and trade secrets, and they identify certain of the legal issues relating to these claims, such as likelihood of confusion, distinctiveness and functionality.² Motion at ¶¶ 4-5. But they do not indicate that they are moving on each of these fact-dependent issues.

Defendants also fail to address the difficulties their page-limit proposal would impose in light of the revised briefing schedule Defendants requested and the Court entered. Dkt. Nos. 132, 136. Reply briefs are now due on December 14, meaning the Court will have approximately one month (over the holiday time period) to review the parties' briefing on dispositive motions, *Daubert* motions and motions *in limine* before the January 15 hearing. This limited review period further supports VGT's view that the Court should impose reasonable page limits, which will force the parties to be thoughtful about the issues they brief and how they brief them. VGT respectfully submits that its compromise proposal of 50 pages for opening briefs, 50 pages for opposition briefs and 25 pages for reply briefs adequately addresses Defendants' concerns while also being mindful of the resulting burden that will be imposed on the Court and VGT.

¹ Many of VGT's claims overlap with one another with respect to the facts and the law. For example, three of the eight claims are for trade secret misappropriation under similar federal and state statutes.

² Although Defendants refer to paragraph 19 of VGT's complaint, which identifies 20 trademark registrations, Motion at ¶ 4, VGT has made clear in discovery responses and expert reports that it is not claiming trademark infringement with respect to the vast majority of these registrations.

September 21, 2018

Respectfully submitted,

/s/ Gary Rubman

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CERTIFICATE OF SERVICE

I hereby certify that on September 21, 2018, I filed the foregoing Plaintiff's Response to Defendants' Motion for Leave to File Briefs in Excess of Twenty-Five Pages via ECF, which caused a true and correct copy of the foregoing motion to be delivered to the following counsel:

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